

RECEIVED / UNITED STATES DISTRICT COURT

JUN 29 2005 WESTERN DISTRICT OF LOUISIANA

ROBERT H. SHEMWELL, CLERK
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

VILLE PLATTE MEDICAL CENTER, INC.

CIVIL ACTION NO. 04-0872

Plaintiff/counter defendant

LIFEPOINT HOSPITALS, INC.

Third-party defendant

VS.

JUDGE MELANCON

RICKY PAUL, M.D.

MAGISTRATE JUDGE METHVIN

Defendant/counter and third-party plaintiff

RULING ON AMOUNT OF RULE 37(d) SANCTIONS

On May 26, 2005, the undersigned granted the Motion to Compel filed by Ricky Paul, M.D. ("Dr. Paul") and awarded sanctions pursuant to Fed. R. Civ. P. 37 (a)(4).¹ Ville Platte Medical Center, L.L.C. ("VPMC") and Lifepoint Hospitals, Inc. ("Lifepoint") has appealed the ruling to the district judge and the hearing on the appeal is scheduled for July 21, 2005.² On June 20, Dr. Paul's counsel filed an Affidavit of Fees and Expenses.³ VPMC and Lifepoint filed an opposition.

Dr. Paul seeks an award of \$2,591.26, representing \$1,890.00 in legal fees and \$701.26 in expenses. Dr. Paul requests an hourly rate of \$150.00 for attorney Crystal D. Burkhalter, whose affidavit details 12.6 hours spent in connection with preparing the motion to compel.

Rule 37(a)(4) FED. R. CIV. P. provides that when a motion to compel is granted the court shall require the party whose conduct necessitated the motion to pay to the moving party the reasonable expenses incurred in making the motion, including reasonable attorneys' fee.

¹ Rec. Doc. 57.

² Rec. Docs. 66, 69.

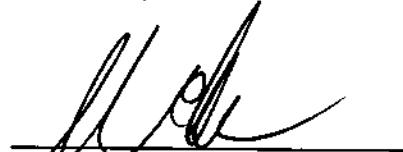
³ Rec. Doc. 62.

Reasonable attorneys' fees are determined by multiplying the reasonable hours expended by a reasonable hourly rate. Hensley v. Eckerhart, 461 U.S. 424, 434 (1983). The calculation of reasonable hours requires a determination of whether the total number of hours claimed were reasonable and whether specific hours claimed were reasonably expended. League of United Latin American Citizens #4552 (LULAC) v. Rosco Independent Sch. Dist., 119 F. 3d 1228, 1232 (1997). A reasonable hourly billing rate is based on the "prevailing market rates in the relevant community." Blum v. Stenson, 465 U.S. 886, 895 (1984).

After reviewing the affidavit, the briefs of the parties, and the underlying discovery dispute, the undersigned concludes that an award of \$1,444.00 will reasonably compensate Dr. Paul for the fees and costs incurred. This amount includes 9.7 hours of time expended by Ms. Burkhalter at an hourly rate of \$125.00 and 231.50 in expenses.⁴

IT IS THEREFORE ORDERED that defendant shall forward payment to Dr. Paul's counsel of record the sum of \$1,444.00 within thirty (30) days following receipt of this order.

Signed at Lafayette, Louisiana on June 29th, 2005.



Mildred E. Methvin
United States Magistrate Judge
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⁴ The expenses awarded are for the cost of copying 926 documents at .25 per copy. The remaining expenses are not awarded.